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7

8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**

10
11 JESUS MARTINEZ MENDOZA,
12 JAVIER CABRERA, AURELIANO
FLORES,

13 Plaintiffs,

14 vs.

15 JOHN W. VOJTECH, CBC FRAMING,
16 INC., A CALIFORNIA
CORPORATION AND DOES 1-10,

17 Defendant.
18
19

CASE NO.: CV 08-01675 HRL

**DEFENDANT JOHN W.
VOJTECH'S ANSWER TO
PLAINTIFFS' UNVERIFIED
COMPLAINT FOR DAMAGES;
DEMAND FOR JURY TRIAL**

20 COMES NOW Defendant JOHN W. VOJTECH ("Defendant"), erroneously
21 sued herein as JOHN W. VOJTECH, dba CBC FRAMING, INC., answering for
22 himself and no other party to Plaintiffs JESUS MARTINEZ MENDOZA, JAVIER
23 CABRERA, and AURELIANO FLORES's ("Plaintiff") Complaint for Damages
24 (the "Complaint") as follows:

25 **NATURE OF CLAIM**

26 Answering this initial paragraph, Defendant denies that Plaintiffs are owed
27 overtime under either the Fair Labor Standards Act or the California Wage Orders
28 and statutes, or that he is liable for any unpaid wages, damages, liquidated

DEFENDANT JOHN W. VOJTECH'S ANSWER TO PLAINTIFFS'
UNVERIFIED COMPLAINT FOR DAMAGES; DEMAND FOR JURY TRIAL

1 damages, penalties, attorneys' fees, costs, prejudgment interest and/or restitution
2 to Plaintiffs. Except as expressly alleged herein, Defendant lacks sufficient
3 information and belief to admit or deny the remaining allegations contained in this
4 paragraph, and on that basis, denies both generally and specifically the allegations
5 contained in said paragraph.

6 PARTIES

7 1. Answering paragraph 1 of the Complaint, Defendant lacks sufficient
8 information and belief to admit or deny the allegations contained in paragraph 1,
9 and on that basis, denies both generally and specifically the allegations contained
10 in said paragraph.

11 2. Answering paragraph 2 of the Complaint, Defendant lacks sufficient
12 information and belief to admit or deny the allegations contained in paragraph 1,
13 and on that basis, denies both generally and specifically the allegations contained
14 in said paragraph.

15 3. Answering paragraph 3 of the Complaint, Defendant lacks sufficient
16 information and belief to admit or deny the allegations contained in paragraph 1,
17 and on that basis, denies both generally and specifically the allegations contained
18 in said paragraph.

19 4. Answering paragraph 4 of the Complaint, Defendant lacks sufficient
20 information and belief to admit or deny the remaining allegations contained in said
21 paragraph, and on that basis, denies both generally and specifically the allegations
22 contained in said paragraph.

23 5. Answering paragraph 5 of the Complaint, Defendant alleges he is
24 President of CBC Framing, Inc. Except as expressly alleged herein, Defendant
25 lacks sufficient information and belief to admit or deny the remaining allegations
26 contained in said paragraph, and on that basis, denies both generally and
27 specifically the allegations contained in said paragraph.

28 6. Answering paragraph 6 of the Complaint, Defendant alleges that he is

1 President of CBC Framing, Inc. Except as expressly alleged herein, Defendant
 2 lacks sufficient information and belief to admit or deny the remaining allegations
 3 contained in said paragraph, and on that basis, denies both generally and
 4 specifically the allegations contained in said paragraph.

5 VENUE

6 7. Answering paragraph 7 of the Complaint, Defendant lacks sufficient
 7 information and belief to admit or deny the allegations contained in paragraph 7,
 8 and on that basis, denies both generally and specifically the allegations contained
 9 in said paragraph.

10 GENERAL ALLEGATIONS

11 8. Answering paragraph 8 of the Complaint, Defendant alleges that
 12 Plaintiffs are former employees of Defendant CBC Framing, Inc. Except as
 13 expressly alleged herein, Defendant lacks sufficient information and belief to
 14 admit or deny the remaining allegations contained in said paragraph, and on that
 15 basis, denies both generally and specifically the allegations contained in said
 16 paragraph.

17 9. Answering paragraph 9 of the Complaint, Defendant denies both
 18 generally and specifically the allegations contained in said paragraph.

19 10. Answering paragraph 10 of the Complaint, Defendant denies both
 20 generally and specifically the allegations contained in said paragraph.

21 11. Answering paragraph 11 of the Complaint, Defendant lacks sufficient
 22 information and belief to admit or deny the remaining allegations contained in said
 23 paragraph, and on that basis, denies both generally and specifically the allegations
 24 contained in said paragraph.

25 12. Answering paragraph 12 of the Complaint, Defendant lacks sufficient
 26 information and belief to admit or deny the remaining allegations contained in said
 27 paragraph, and on that basis, denies both generally and specifically the allegations
 28 contained in said paragraph.

COUNT ONE: VIOLATION OF CA LABOR CODE SECTION § 510**FAILURE TO PROPERLY PAY OVERTIME WAGES**

13. Answering paragraph 13 of the Complaint, Defendant makes reference to all of its prior answers to each and every paragraph incorporated by reference in paragraph 13 of the Complaint, and by this reference incorporates the same herein as though set forth in full.

14. Answering paragraph 14 of the Complaint, Defendant alleges that Labor Code § 501 [sic] speaks for itself and is the best evidence of its contents. Except as expressly alleged herein, Defendant lacks sufficient information and belief to admit or deny the remaining allegations contained in said paragraph, and on that basis, denies both generally and specifically the allegations contained in said paragraph.

15. Answering paragraph 15 of the Complaint, Defendant denies both generally and specifically the allegations contained in said paragraph.

16. Answering paragraph 16 of the Complaint, Defendant alleges that Labor Code § 1194 speaks for itself and is the best evidence of its contents. Except as expressly alleged herein, Defendant lacks sufficient information and belief to admit or deny the remaining allegations contained in said paragraph, and on that basis, denies both generally and specifically the allegations contained in said paragraph.

17. Answering paragraph 17 of the Complaint, Defendant denies both generally and specifically the allegations contained in said paragraph.

18. Answering paragraph 18 of the Complaint, Defendant denies that he owes Plaintiffs any unpaid wages. Except as expressly alleged herein, Defendant lacks sufficient information and belief to admit or deny the remaining allegations contained in said paragraph, and on that basis, denies both generally and specifically the allegations contained in said paragraph.

19. Answering paragraph 19 of the Complaint, Defendant alleges that

1 Labor Code §§ 510 and 1194 speak for themselves and are the best evidence of
2 their respective contents. Except as expressly alleged herein, Defendant denies
3 both generally and specifically the allegations contained in said paragraph.

4 20. Answering paragraph 20 of the Complaint, Defendant alleges that
5 Labor Code § 1194 speaks for itself and is the best evidence of its contents.
6 Defendant further denies that Plaintiffs are entitled to attorneys' fees and/or costs
7 in this action. Except as expressly alleged herein, Defendant lacks sufficient
8 information and belief to admit or deny the remaining allegations contained in said
9 paragraph, and on that basis, denies both generally and specifically the allegations
10 contained in said paragraph.

11 **COUNT TWO: VIOLATION OF THE FAIR LABOR STANDARDS ACT**
12 **FAILURE TO PROPERLY PAY OVERTIME WAGES**

13 21. Answering paragraph 21 of the Complaint, Defendant makes
14 reference to all of its prior answers to each and every paragraph incorporated by
15 reference in paragraph 21 of the Complaint, and by this reference incorporates the
16 same herein as though set forth in full.

17 22. Answering paragraph 22 of the Complaint, Defendant alleges that the
18 provisions of the Fair Labor Standards Act of 1938 ("FLSA"), 29 U.S.C. § 201, et
19 seq., speak for themselves and are the best evidence of their respective contents.
20 Except as expressly alleged herein, Defendant lacks sufficient information and
21 belief to admit or deny the remaining allegations contained in said paragraph, and
22 on that basis, denies both generally and specifically the allegations contained in
23 said paragraph.

24 23. Answering paragraph 23 of the Complaint, Defendant alleges that 29
25 U.S.C. § 207, speaks for itself and is the best evidence of its contents. Except as
26 expressly alleged herein, Defendant lacks sufficient information and belief to
27 admit or deny the remaining allegations contained in said paragraph, and on that
28 basis, denies both generally and specifically the allegations contained in said

1 paragraph.

2 24. Answering paragraph 24 of the Complaint, Defendant denies that
3 Plaintiffs regularly worked in excess of forty hours per week or that he owes
4 Plaintiffs any alleged unpaid wages. Except as expressly alleged herein,
5 Defendant lacks sufficient information and belief to admit or deny the remaining
6 allegations contained in said paragraph, and on that basis, denies both generally
7 and specifically the allegations contained in said paragraph.

8 25. Answering paragraph 25 of the Complaint, Defendant denies both
9 generally and specifically the allegations contained in said paragraph.

10 26. Answering paragraph 26 of the Complaint, Defendant denies both
11 generally and specifically the allegations contained in said paragraph.

12 27. Answering paragraph 27 of the Complaint, Defendant alleges that 29
13 U.S.C. § 216(b), speaks for itself and is the best evidence of its contents. Except
14 as expressly alleged herein, Defendant denies both generally and specifically the
15 allegations contained in said paragraph.

16 28. Answering paragraph 28 of the Complaint, Defendant denies both
17 generally and specifically the allegations contained in said paragraph.

18 29. Answering paragraph 29 of the Complaint, Defendant alleges that 29
19 U.S.C. § 216(b), speaks for itself and is the best evidence of its contents. Except
20 as expressly alleged herein, Defendant denies both generally and specifically the
21 allegations contained in said paragraph.

22 **COUNT THREE: VIOLATION [SIC] OF CA LABOR**

23 **CODE SECTION 201**

24 **FAILURE TO PAY WAGES DUE AND "WAITING TIME" PENALTIES**

25 30. Answering paragraph 30 of the Complaint, Defendant makes
26 reference to all of its prior answers to each and every paragraph incorporated by
27 reference in paragraph 30 of the Complaint, and by this reference incorporates the
28 same herein as though set forth in full.

31. Answering paragraph 31 of the Complaint, Defendant denies both generally and specifically the allegations contained in said paragraph.

32. Answering paragraph 32 of the Complaint, Defendant alleges that Labor Code §§ 201 and 203, speak for themselves and are the best evidence of their respective contents. Except as expressly alleged herein, Defendant denies both generally and specifically the allegations contained in said paragraph.

33. Answering paragraph 33 of the Complaint, Defendant denies both generally and specifically the allegations contained in said paragraph.

34. Answering paragraph 34 of the Complaint, Defendant alleges that Labor Code § 218.5 speaks for itself and is the best evidence of its contents. Except as expressly alleged herein, Defendant denies both generally and specifically the allegations contained in said paragraph.

35. Answering paragraph 35 of the Complaint, Defendant alleges that Labor Code § 218.6 speaks for itself and is the best evidence of its contents. Defendant further denies that Plaintiffs are owed any alleged unpaid wages and therefore denies that Plaintiffs are entitled to an award of interest. Except as expressly alleged herein, Defendant lacks sufficient information and belief to admit or deny the remaining allegations contained in said paragraph, and on that basis, denies both generally and specifically the allegations contained in said paragraph.

COUNT FOUR: VIOLATION OF CA BUSINESS AND PROFESSIONS

CODE § 17200 UNFAIR BUSINESS PRACTICES

36. Answering paragraph 36 of the Complaint, Defendant makes reference to all of its prior answers to each and every paragraph incorporated by reference in paragraph 36 of the Complaint, and by this reference incorporates the same herein as though set forth in full.

37. Answering paragraph 37 of the Complaint, Defendant alleges that the Labor Code and Wage Orders speak for themselves and are the best evidence of

1 their respective contents. Except as expressly alleged herein, Defendant lacks
 2 sufficient information and belief to admit or deny the remaining allegations
 3 contained in said paragraph, and on that basis, denies both generally and
 4 specifically the allegations contained in said paragraph.

5 38. Answering paragraph 38 of the Complaint, Defendant alleges that the
 6 California Unfair Trade Practices Act (California Business and Professions Code §
 7 17000, et seq.), speak for themselves and are the best evidence of their respective
 8 contents. Defendant further denies that he owes Plaintiffs any alleged unpaid
 9 wages. Except as expressly alleged herein, Defendant lacks sufficient information
 10 and belief to admit or deny the remaining allegations contained in said paragraph,
 11 and on that basis, denies both generally and specifically the allegations contained
 12 in said paragraph.

13 39. Answering paragraph 39 of the Complaint, Defendant denies both
 14 generally and specifically the allegations contained in said paragraph.

15 40. Answering paragraph 40 of the Complaint, Defendant alleges that the
 16 California Unfair Trade Practices Act (California Business and Professions Code §
 17 17000, et seq.), speak for themselves and are the best evidence of their respective
 18 contents. Except as expressly alleged herein, Defendant denies both generally and
 19 specifically the allegations contained in said paragraph.

20 41. Answering paragraph 41 of the Complaint, Defendant denies both
 21 generally and specifically the allegations contained in said paragraph.

22 42. Answering paragraph 42 of the Complaint, Defendant denies that he
 23 owes Plaintiffs any alleged unpaid wages. Except as expressly alleged herein,
 24 Defendant lacks sufficient information and belief to admit or deny the remaining
 25 allegations contained in said paragraph, and on that basis, denies both generally
 26 and specifically the allegations contained in said paragraph.

27 43. Answering paragraph 43 of the Complaint, Defendant alleges that
 28 California Business and Professions Code § 17203, speaks for itself and is the best

evidence of its contents. Except as expressly alleged herein, Defendant lacks sufficient information and belief to admit or deny the remaining allegations contained in said paragraph, and on that basis, denies both generally and specifically the allegations contained in said paragraph.

COUNT FIVE: VIOLATION OF CALIFORNIA LABOR CODE § 226

INADEQUATE PAY STATEMENTS

44. Answering paragraph 44 of the Complaint, Defendant makes reference to all of its prior answers to each and every paragraph incorporated by reference in paragraph 44 of the Complaint, and by this reference incorporates the same herein as though set forth in full.

45. Answering paragraph 45 of the Complaint, Defendant alleges that California Labor Code § 226, speaks for itself and is the best evidence of its contents. Except as expressly alleged herein, Defendant lacks sufficient information and belief to admit or deny the remaining allegations contained in said paragraph, and on that basis, denies both generally and specifically the allegations contained in said paragraph.

46. Answering paragraph 46 of the Complaint, Defendant alleges that California Labor Code § 226, speaks for itself and is the best evidence of its contents. Except as expressly alleged herein, Defendant lacks sufficient information and belief to admit or deny the remaining allegations contained in said paragraph, and on that basis, denies both generally and specifically the allegations contained in said paragraph.

47. Answering paragraph 47 of the Complaint, Defendant denies both generally and specifically the allegations contained in said paragraph.

48. Answering paragraph 48 of the Complaint, Defendant denies both generally and specifically the allegations contained in said paragraph.

49. Answering paragraph 49 of the Complaint, Defendant denies both generally and specifically the allegations contained in said paragraph.

50. Answering paragraph 50 of the Complaint, Defendant denies both generally and specifically the allegations contained in said paragraph.

51. Answering paragraph 51 the Complaint, Defendant alleges that Labor Code § 226 speaks for itself and is the best evidence of its contents. Defendant further denies that Plaintiffs are entitled to attorneys' fees and/or costs in this action. Except as expressly alleged herein, Defendant lacks sufficient information and belief to admit or deny the remaining allegations contained in said paragraph, and on that basis, denies both generally and specifically the allegations contained in said paragraph.

AFFIRMATIVE DEFENSES

Defendant is informed and believes and based thereon alleges as follows:

FIRST AFFIRMATIVE DEFENSE

1. The Complaint, and its purported claims for relief, fails to state facts sufficient to constitute a claim for relief against Defendant.

SECOND AFFIRMATIVE DEFENSE

2. Defendant cannot be held individually liable for any alleged unpaid wages and/or penalties, as he was not Plaintiffs' employer.

THIRD AFFIRMATIVE DEFENSE

3. Defendant cannot be held individually liable for any alleged unpaid wages and/or penalties, as he is not an alter-ego of Defendant CBC Framing, Inc.

FOURTH AFFIRMATIVE DEFENSE

4. The Court lacks jurisdiction over the claims alleged in the Complaint or some of the claims alleged in the Complaint.

FIFTH AFFIRMATIVE DEFENSE

5. Plaintiffs' claims are barred by the doctrines of exhaustion, abstention and/or primary jurisdiction in that Plaintiffs have not exhausted their available administrative remedies.

SIXTH AFFIRMATIVE DEFENSE

6. To each claim for relief in the Complaint, Defendant alleges that recovery thereon is barred or diminished by reason of Plaintiffs' failure to mitigate their alleged damages.

SEVENTH AFFIRMATIVE DEFENSE

7. Plaintiffs' claims for "waiting time" penalties under Labor Code §§ 201-203 are barred because Defendant had a good faith belief that no such wages were owed and that all wages were properly paid.

EIGHTH AFFIRMATIVE DEFENSE

8. Plaintiffs' claims for "waiting time" penalties under Labor Code §§ 201-203 must fail because Defendant has not "willfully failed" to pay wages to Plaintiff.

NINTH AFFIRMATIVE DEFENSE

9. Plaintiffs' claim for penalties under Labor Code § 226 is barred because Defendant did not "knowingly and intentionally" fail to comply with its requirements.

TENTH AFFIRMATIVE DEFENSE

10. Plaintiffs lack standing to assert any of the claims in their Complaint.

ELEVENTH AFFIRMATIVE DEFENSE

11. The claims alleged in the Complaint against Defendant are barred in that Plaintiffs ratified by their conduct that all wages due were paid.

TWELFTH AFFIRMATIVE DEFENSE

12. Plaintiffs' actions constitute a total release and waiver of any and all claims which may have existed against Defendant.

THIRTEENTH AFFIRMATIVE DEFENSE

13. Plaintiffs, by reason of their acts, omissions, representations and courses of conduct by which Defendant was led to rely to its detriment, are barred from any recovery herein by virtue of the doctrine of estoppel.

FOURTEENTH AFFIRMATIVE DEFENSE

14. Plaintiffs, by reason of their acts, omissions, representations and courses of conduct which indicate a waiver of any claims against Defendant, is barred from any recovery herein by the doctrine of waiver.

FIFTEENTH AFFIRMATIVE DEFENSE

15. If any equitable relief is claimed to be owed to the Plaintiffs as a result of the Complaint on file herein, it is barred as a result of the doctrine of laches.

SIXTEENTH AFFIRMATIVE DEFENSE

16. Plaintiffs would be unjustly enriched if they recovered any sums alleged in their Complaint.

SEVENTEENTH AFFIRMATIVE DEFENSE

17. The obligations set forth in Plaintiffs' Complaint were fully discharged by Defendant's payment to Plaintiffs of all wages due and were accepted by Plaintiffs in full payment of the obligation.

EIGHTEENTH AFFIRMATIVE DEFENSE

18. The Complaint and each and every claim for relief alleged therein is barred by all applicable statutes of limitation, including, but by no means limited to CCP §§ 337-343 and/or Business and Professions Code § 17208.

NINETEENTH AFFIRMATIVE DEFENSE

19. Should Plaintiffs recover damages from Defendant, Defendant is entitled to indemnification in whole or in part from all persons or entities whose conduct and/or fault proximately contributed to Plaintiffs' damages, if any.

TWENTIETH AFFIRMATIVE DEFENSE

20. Defendant is informed, believes, and on that basis alleges that Plaintiffs agreed to accept and did in fact accept something different or less than that to which they claimed they were entitled to and thereby extinguished their original claim. Such conduct bars them from any recovery herein under the

1 doctrine of release, accord, satisfaction, ratification, and/or novation.

2 **TWENTY-FIRST AFFIRMATIVE DEFENSE**

3 21. If Plaintiffs suffered or sustained any damage or injury, either as
4 alleged in the Complaint or at all, the same was directly and proximately attributed
5 to by the negligence, fraud, recklessness, carelessness, fault and unlawful conduct
6 of Plaintiffs, and damages of Plaintiffs, if any, shall be reduced in proportion to
7 the amount of negligence and/or fault attributed to Plaintiffs.

8 **TWENTY-SECOND AFFIRMATIVE DEFENSE**

9 22. If Plaintiffs suffered or sustained any damage or injury, either as
10 alleged in the Complaint or at all, the same was directly and proximately attributed
11 to by the negligence, fraud, recklessness, carelessness, fault and unlawful conduct
12 of other parties or entities, whether or not parties to this action, and damages to
13 Plaintiffs, if any, shall be reduced in proportion to the amount of negligence and/or
14 fault attributed to such other parties or entities, whether or not parties to this
15 action.

16 **TWENTY-THIRD AFFIRMATIVE DEFENSE**

17 23. Defendant alleges that the actions of Plaintiffs in concealing their
18 claim and not requesting or indicating additional hours were worked and wages
19 were owed during their employment are guilty of laches which precludes Plaintiffs
20 from pursuing this action under the doctrine of laches and estoppel.

21 **TWENTY-FOURTH AFFIRMATIVE DEFENSE**

22 24. Defendant is informed and believes and thereon alleges that some or
23 all of Plaintiffs' claims have been satisfied or released.

24 **TWENTY-FIFTH AFFIRMATIVE DEFENSE**

25 25. Plaintiffs' action is barred since Defendant relied in good faith in
26 conformity with and in reliance upon written guidelines, interpretations, and rules
27 promulgated by the DLSE, Industrial Welfare Commission ("IWC"), United States
28 Department of Labor ("DOL"), and upon the administrative practice and

enforcement policies of the DLSE, IWC and DOL.

TWENTY-SIXTH AFFIRMATIVE DEFENSE

26. If Plaintiffs suffered any injury or damage, any alleged violation of California rules and regulations regarding minimum wage, record-keeping, and/or overtime requirements was made in good faith and Defendant had a reasonable ground for believing he was in compliance with the law.

TWENTY-SEVENTH AFFIRMATIVE DEFENSE

27. If it is determined that Defendant failed to perform one or more of his obligations under any contract or agreement described in the Complaint, performance of each obligation was excused due to impossibility or impracticability in each instance.

TWENTY-EIGHTH AFFIRMATIVE DEFENSE

28. Defendant is informed and believes and thereon alleges that some or all of Plaintiffs' claims have been satisfied or released.

TWENTY-NINTH AFFIRMATIVE DEFENSE

29. Defendant alleges that as between Plaintiffs and Defendant, the equities do not preponderate in favor of Plaintiffs, and accordingly, Plaintiffs are barred from any recovery herein.

THIRTIETH AFFIRMATIVE DEFENSE

30. Defendant's business practice of paying its employees is not "unlawful" or "unfair" within the meaning of Business and Professions Code § 17200 in that Defendant complied with all applicable statutes and regulations.

THIRTY-FIRST AFFIRMATIVE DEFENSE

31. To the extent that Plaintiffs allege that one or more of Defendant's employees committed any unlawful act or omission, any such act or omission outside course and scope of employment; (2) was not condoned by this answering Defendant; (3) was undertaken without the knowledge or consent of this answering Defendant; and (4) was not the conduct of a class-based nature.

THIRTY-SECOND AFFIRMATIVE DEFENSE

32. Defendant overpaid Plaintiffs, and therefore would be entitled to offset by the amount of any overpayment of any sums that might be awarded in the above-entitled action to Plaintiffs.

THIRTY-THIRD AFFIRMATIVE DEFENSE

33. Plaintiffs' claims for liquidated damages under the federal Fair Labor Standards Act ("FLSA") are barred because California laws and regulations regarding such penalties violate provisions of the United States Constitution and of the California Constitution, place an unreasonable burden on interstate commerce, and constitute unequal protection and denial of due process.

THIRTY-FOURTH AFFIRMATIVE DEFENSE

34. The Complaint and each of its causes of action is frivolous as to Defendant and Defendant is entitled to recover attorney's fees incurred in defending this action pursuant to CCP § 128.5, and other applicable laws.

THIRTY-FIFTH AFFIRMATIVE DEFENSE

35. Defendant presently has insufficient knowledge or information on which to form a belief as to whether Defendant may have additional, as yet, unstated affirmative defenses available. Defendant reserves herein the right to assert additional defenses in the event that discovery and/or further investigation or research indicates that it would be appropriate.

WHEREFORE, Defendant prays for judgment against Plaintiffs as follows:

1. That Plaintiffs take nothing by their Complaint;
2. That the Complaint be dismissed in its entirety with prejudice;
3. For costs of suit incurred herein;
4. For reasonable attorneys' fees, including but not limited to fees mandated under Labor Code § 218.5; and

1 5. For such other and further relief as the Court may deem just and
2 proper.

3 DATED: July 8, 2008

4 ATKINSON, ANDELSON, LOYA, RUUD &
5 ROMO

6 By: 

7 Steven D. Atkinson
8 Mark T. Palin
9 Christopher S. Milligan
10 Attorneys for Defendants CBC
11 FRAMING, INC. and JOHN VOJTECH

12 **DEMAND FOR JURY TRIAL**

13 Defendant demands a jury trial in this action.

14 DATED: July 8, 2008

15 ATKINSON, ANDELSON, LOYA, RUUD &
16 ROMO

17 By: 

18 Steven D. Atkinson
19 Mark T. Palin
20 Christopher S. Milligan
21 Attorneys for Defendants CBC
22 FRAMING, INC. and JOHN VOJTECH